THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.11788 OF 2007

ORAL ORDER:

The petitioner herein was issued a passport bearing No.HYDH00600307 dated 10.12.1991, which was valid up to 24.4.1996. Since no application was made for renewal before expiry of the said passport, the said passport stood lapsed. Thereafter, a fresh application was made on 9.2.2007 in the prescribed form requesting issuance of a passport, since the petitioner intended to prosecute his studies abroad.

Pursuant thereto, the petitioner was served with a notice, dated 23.3.2007 by the Office of the respondent calling upon to explain the alleged suppression of material information about the previous passport. He was also asked to surrender the passport in the respondent's Office. In compliance with the same, the petitioner has submitted the passport, which stood lapsed. Since there was a discrepancy as to his date of birth entered in the earlier passport, the petitioner also explained that it was only on account of an inadvertent mistake, since the same was obtained while he was a minor.

However, the petitioner was again served with a letter dated 9.4.2007 directing him to surrender his previous passport and to explain the change of date of birth in the passport. The petitioner made a detailed representation stating that the year of birth was wrongly mentioned in the previous passport as 1981 instead of 1982 and in support of his plea, he also submitted authenticated documentary proof i.e., Secondary School Certificate as well as *bona fide* Certificate issued by the School authorities. However, instead of issuing passport, the respondent sent another letter dated 22.5.2007 calling upon the petitioner to submit a declaratory decree from Civil Court within 15 days. Aggrieved by the same, this writ petition is filed

seeking a declaration that the action of the respondent in insisting upon production of declaratory decree from the Civil Court as arbitrary and illegal.

I have heard the learned counsel for the petitioner.

Though personal notice was served in the Office of the respondent on 26.6.2007, the respondent did not choose to appear.

It is to be noted that the Government of India, Ministry of External Affairs, issued circular dated 18.04.2001, which reads as under:

> (a) Where an applicant is seeking rectification/Correction of a mistake in the entry of date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
>
> (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.
>
> (c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth."

Having considered the above circular, this Court in **Ali Imran v. Regional Passport Officer, Secunderabad** [1] held that as per the circular dated 18.04.2001, it is permissible to accept the applications for rectification/correction of the entries in the passport.

The learned counsel for the petitioner submits that the correction of date of birth of the petitioner sought to be entered in the fresh passport is only a technical correction, and therefore, it falls under clause (a) of the circular. In support of his submission the learned counsel relied upon the decision in **Asra Begum v. Regional Passport Officer, Secunderabad** [2].

Having regard to the facts and circumstances of the case and

following the decision of this Court in **Ali Imran's case** (1 supra), the writ petition is disposed of with a direction to the respondent to reconsider the petitioner's application in terms of the circular dated 18.04.2001, taking into consideration the supporting material produced by the petitioner and to pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of a copy of this order. It is also open to the petitioner to produce fresh material, if any, to establish his correct date of birth. No costs.

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(G. ROHINI, J.)

3rd August, 2007.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.11788 OF 2007

3rd August, 2007

Between:

Kayati Sandeep. .. Petitioner.

And

The Regional Pass Port Officer,
Hyderabad, Regional Pass Port Office,
Near Clock tower,
Secunderabad. .. Respondent.

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[1] 2003(3) ALD 625;

[2] 2004(6) ALD 360.